

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

MARIO MORENO

Claimant

VS.

EXCEL CORPORATION

Respondent

Self-Insured

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Docket No. 211,465

ORDER

Respondent appeals from an Award entered by Special Administrative Law Judge William F. Morrissey on March 31, 1997.

APPEARANCES

D. Shane Bangerter of Dodge City, Kansas, appeared on behalf of respondent, a qualified self-insured. Kelly W. Johnston of Wichita, Kansas, appeared on behalf of claimant.

RECORD AND STIPULATIONS

The Appeals Board has reviewed and considered the record listed in the Award. The Appeals Board has also adopted all stipulations listed in the Award.

ISSUES

The Special Administrative Law Judge awarded benefits for a 12.5 percent permanent partial impairment to claimant's left leg. The sole issue for determination on appeal is whether claimant's permanent impairment resulted from the accident he sustained at work.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board concludes that the Award by the Special Administrative Law Judge should be affirmed. The Appeals Board so finds for the reasons stated in the summary of findings by the Special Administrative Law Judge, which are hereby adopted by the Appeals Board as its own findings and conclusions. Specifically, the Board finds claimant's cyst occurred as a result of a traumatic meniscal tear which occurred at work in February 1995. This conclusion is based on testimony by Paul D. Lesko, M.D. The Board also agrees with the finding that claimant has 12.5 percent permanent impairment to the left leg.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Special Administrative Law Judge William F. Morrissey, dated March 31, 1997, should be, and is hereby, affirmed.

WHEREFORE, AN AWARD OF COMPENSATION IS HEREBY MADE IN ACCORDANCE WITH THE ABOVE FINDINGS IN FAVOR of the claimant, Mario Moreno, and against the respondent, Excel Corporation, a self-insured, for an accidental injury arising out of and in the course of employment on or about February 17, 1995, based on an average weekly wage of \$395.53, for 25 weeks of compensation at the rate of \$263.70 per week in the sum of \$6,592.50, for 12.5% permanent partial loss of use of the left leg.

As of March 31, 1997, all compensation is past due and owing and is ordered paid in one lump sum less compensation heretofore paid.

Future medical benefits will be awarded only upon proper application to and approval of the Director. Unauthorized medical expense of up to \$350.00 is ordered paid to or on behalf of the claimant upon presentation of proof of such expense.

Claimant's attorney fee contract is approved insofar as not inconsistent with K.S.A. 44-536.

Administrative fees are hereby assessed to the respondent to be paid direct as follows:

William F. Morrissey Special Administrative Law Judge	\$150.00
Underwood & Shane Transcript of Regular Hearing	\$82.00
Deposition of Linda Nichols Davis	\$215.00

Deposition of Lois Cephus	\$101.00
Deposition of C. Reiff Brown, M.D.	Unknown
Barber & Associates	
Deposition of Mario Moreno	\$113.00
Deposition of Pedro A. Murati, M.D.	\$139.20
Alexander Reporting Company	
Deposition of Paul Lesko, M.D.	\$154.26

IT IS SO ORDERED.

Dated this ____ day of August 1997.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Kelly W. Johnston, Wichita, KS
D. Shane Bangerter, Dodge City, KS
Kenneth S. Johnson, Administrative Law Judge
Philip S. Harness, Director